

**PROPOSED AMENDMENTS TO THE LDRS
TO REVISE DIVISION 8: ENVIRONMENTAL STANDARDS**

AMENDMENT # 1

Delete Sections 9.5-336 Existing conditions map, 9.5-337 Habitat analysis required, 9.5-338 Waiver of habitat analysis, 9.5-339 Habitat type analysis, 9.5-339.1 Habitat analysis objective, 9.5-339.2 Automatic high quality forest classification, 9.5-339.3 Habitat analysis definitions and approach, 9.5-340 Habitat analysis for high hammocks, 9.5-341 Habitat analysis for low hammocks, 9.5-342 Habitat analysis for palm hammocks, and 9.5-343 Habitat analysis for pinelands.¹

AMENDMENT # 2

Add new Section 9.5-336 that reads as follows:²

Sec. 9.5-336. Existing conditions report.

As part of an application for approval on lands containing upland native vegetation communities the applicant shall prepare and submit an existing conditions report including a vegetative survey that identifies the distribution and quality of native habitat within the parcel or lot proposed to be developed in accordance with the standards of this division. The existing conditions report will be prepared by a biologist qualified under sec. 9.5-28, in a form approved by the director of planning and contain, at a minimum, the following:

(a) *Cover Page:* The cover page shall contain the following:

- (1) Legal description of parcel.
- (2) Property owners name and address.
- (3) Date of report and site visits.
- (4) Consultant's name, agency and contact information.
- (5) Consultant's signature.

(b) *Summary:* A general description of site including discussion of habitat type, important features and presence and location of any disturbed areas.

¹ This revision removes the requirements for performing an HEI, the Tier system has identified the quality upland native vegetative resources and clearing will be based on the Tier designation.

² This revision requires an existing conditions report for all development with upland habitat, to include a vegetation survey.

- (c) *Species List*: A list of species found in the survey provided in a matrix of the following five columns:
 - (1) Column 1 - removed - estimates the number of that plant will be removed.
 - (2) Column 2 - retained - indicates that one or more of that plant will remain.
 - (3) Column 3 - common plant name.
 - (4) Column 4 - scientific name.
 - (5) Column 5 - status - threatened, endangered, or regionally important and other native species four inches or greater in diameter at four feet in height and exotic or pest plant status.
- (d) *Site Plan*: A site plan at a scale of 1 (1) inch equals twenty (20) feet or greater showing the location of all native species that are threatened, endangered, regionally important and areas of disturbance and exotic species.

AMENDMENT # 3

Add new Section 9.5-337 that reads as follows:³

Section 9.5-337. Administration and compliance.

Before a certificate of occupancy or final inspection of approval may be issued for any structure, portion, or phase of a project subject to this division a grant of conservation easement running in favor of Monroe County shall be approved by the growth management director and the county attorney and filed in the Land Records of Monroe County. The Conservation Easement shall state the amount of required upland native vegetation open space and prohibiting activities within that open space, including removal, trimming or pruning of native vegetation; acts detrimental to wildlife or wildlife habitat preservation; excavation, dredging, removal or manipulation of the substrate; activities detrimental to drainage, flood control, or water or soil conservation; dumping or placing soil, trash, or other materials; and any other restrictions as may be stated on the Conservation Easement.

AMENDMENT #4

Add new Section 9.5-338 that reads as follows:

Section 9.5-338 Wetland open space requirements.

No development activities, except as provided for in this division, are permitted in mangroves, freshwater wetlands and in undisturbed saltmarsh and buttonwood wetlands, the open space requirement is one hundred (100) percent.

³ This revision clarifies that the conditions in existence when an application is approved shall only be modified in conformance to an approved development plan and that the vegetation of the site must be maintained into perpetuity.

AMENDMENT # 5

Amend Section 9.5-347 (b)(c) and (d) and create a new (e) as follows:

Sec. 9.5-347. Clearing permitted.⁴

(b) Percentage of Clearing: ~~No land shall be developed, used or occupied such that the amount of open space on the parcel proposed for development is less than the open space ratios listed below for each habitat. Clearing of upland native vegetation communities in the Tiers I, II, and III shall be limited and open space requirements for the portion of the property containing upland native vegetation increased in the following percentages:~~

| TIER | Permitted Clearing |
|----------|---------------------------------|
| Tier I | 10% of upland native vegetation |
| Tier II | 40% of upland native vegetation |
| Tier III | 60% of upland native vegetation |

TABLE INSET:

| Land Type of Existing Conditions Map | Open Space Ratio |
|---|------------------|
| Open Waters | 1.00 |
| Mangrove and freshwater wetlands ¹⁵ | 1.00 |
| Saltmarsh and buttonwood wetlands ¹⁶ | 1.00 |
| High hammock (high quality) | 0.80 |
| High hammock (moderate quality) | 0.60 |
| High hammock (low quality) | 0.40 |
| Low hammock (high quality) | 0.80 |
| Low hammock (moderate quality) | 0.60 |
| Low hammock (low quality) | 0.40 |
| Palm hammock | 0.90 |
| Cactus hammock | 0.90 |
| Pinelands (high quality) | 0.80 |
| Pinelands (low quality) | 0.60 |
| Beach berm | 0.90 |
| Disturbed | 0.20 |
| Disturbed with hammock ¹⁷ | 0.40 |
| Disturbed with saltmarsh and buttonwood ¹⁸ | See § 9.5-348(d) |
| Disturbed beach/berm | 0.20 |
| Disturbed with exotics | 0.20 |
| Disturbed with slash pines ¹⁹ | 0.60 |
| Off shore islands | 0.95 |

(e) ~~No structures shall be permitted in the required open space except for the following:~~

⁴ This revision reflects that clearing will be controlled by the Tier designation based on the existing conditions rather than the HEI that was based on the 1986 habitat maps.

- (1) ~~Up to fifty (50) percent of the total area of driveways, parking areas, passive recreational uses, and active recreational uses provided that:~~
 - a. ~~They do not cumulatively occupy more than ten (10) percent of the total required open space area;~~
 - b. ~~They are constructed of permeable materials;~~
 - c. ~~They do not require the removal of native vegetation; and~~
 - d. ~~They are located within a disturbed upland habitat.~~
- (2) ~~Structures buried underground including but not limited to septic tank drain fields, utility lines, and underground tanks, provided that:~~
 - a. ~~They are covered with permeable materials;~~
 - b. ~~They do not require the removal of native vegetation; and~~
 - c. ~~They are located within a disturbed upland habitat.~~

(c) *Site Baseline Conditions:* The legal conditions of land existing as of February 28, 1986 and as depicted on the “December 1985 Habitat Classification Aerial Photographs,” shall be used as a baseline to determine the clearing that may be permitted on a site. The 1985 maps shall be supplemented by recent aerial photography and existing site analysis to determine any increases in the amount of upland native vegetated areas. Upland native vegetated areas cleared between 1986 and time of permit application shall be considered to still include upland native vegetation for purposes of determining the amount of open space and clearing permitted.

~~(d) Required open space shall be maintained pursuant to the most restrictive design criteria listed for each habitat which applies to the development as listed in this division. Permittable clearing within each habitat type shall be assessed on a cumulative basis such that any additional or proposed clearing shall be determined by accounting for all previous clearing that occurred on the site since February 28, 1986. Major development sites approved prior to September 15, 1986 shall not be permitted to clear additional habitat beyond the clearing originally approved without first obtaining approval under the terms of this chapter.~~

~~(Ord. No. 007-2002, § 1(Exh. A))~~

~~14 Adopted by State Rule 28-20.025(13) on Jan. 04, 1996 and further amended by Staff.~~

~~15 Implements Policies 102.1.1, 204.2.1, and 207.13.1 and was already adopted pursuant to rule 28-20.025~~

~~16 Implements Policies 207.1.4 and 207.12.5~~

~~17 Implements Policy 205.2.6~~

~~18 Development in disturbed wetlands determined by KEYWEP evaluation~~

~~19 Implements Policy 205.2.6~~

(d) *Ocean Reef Clearing:* For the purpose of this ordinance, upland native vegetated areas in Ocean Reef Club, shall be considered Tier II and clearing shall be limited to forty (40) percent of the upland native vegetated areas.

(e) *Lot Aggregation and Clearing:* For ROGO application that receive points for lot aggregation under Section 9.5-122.3 (a) (3), permitted clearing of vegetation shall be limited to the percentage of the property indicated in paragraph (b) above or five-thousand (5,000) square feet, whichever is less.